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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/990,770

11/21/2001

Melody Vos

149-0046US

1825

29855

7590

04/14/2008

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,  
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20333 SH 249

SUITE 600

HOUSTON, TX 77070

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT

PAPER NUMBER

2165

MAIL DATE

DELIVERY MODE

04/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/990,770	<b>Applicant(s)</b> VOS ET AL.	
	<b>Examiner</b> Neveen Abel-Jalil	<b>Art Unit</b> 2165	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40 and 42-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40, and 42-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. In view of the Appeal Brief filed on January 8, 2008, PROSECUTION IS HEREBY REOPENED. *A new ground of rejection is set forth below.*

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

2. Claims 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40 and 42-45 are now pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1-4, 6, 8-10, 12-19, 21, 23-25, 27-34, 36, 38-40 and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fangzhe Chang & Vijay Karamcheti. Automatic Configuration and Run-Time Adaptation of Distributed Applications. IEEE 2000. (hereon in

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Chang et al.)-previously presented- in view of Blattmann-Bleile et al. (U.S. Patent No. 5,884,311).

As to claims 1, 16, and 31, Chang et al. discloses associating management criteria with the repository (database) to manage repository (database) objects (See Chang et al. page 13, paragraphs 3-6, wherein “management criteria” is interpreted in view of Applicant’s disclosure to be “statistics”, and wherein “associating” is broad language and can simply be interpreted to include “storing”, and wherein “repository” is be read on server and its resources in place of Applicant's database, see complete 103 rejection below);

collection statistics relating to the operation of the repository (database) (See Chang et al. page 14, wherein “QoS metrics” are statistics, also see Chang et al. page 15, paragraph 2); and

determining characteristics of the repository (database) objects based on the collected statistics (See Chang et al. page 16, paragraph 4, also see Chang et al. page 17, paragraphs 1-3);

determining actions to be performed on one or more repository (database) to modify the one or more repository (database) objects based on the management criteria and the determined characteristics of the repository (database) objects (See Chang et al. page 12, paragraph 1);

modifying the one or more repository (database) objects by performing the actions on the repository (database) objects (See Chang et al. page 12, paragraph 3);

monitoring results of modifying the (database) objects (See Chang et al. page 12, paragraph 2); and

reconfiguring the management criteria associated with the (database) objects based on the results of modifying the (database) objects (See Chang et al. page 11, abstract, also see Chang et al. page 12, paragraph 8).

Chang et al. teaches the claimed invention but does not teach it to be specific to a database or database object. Chang et al. directs his invention to a server and server objects (application resources).

Blattmann-Bleile et al. teaches dynamic reconfiguration of databases by monitoring database objects (See abstract, and see column 5, lines 42-46).

Both Chang et al. and Blattmann-Bleile et al. are from analogous art dealing with monitoring systems, collecting statistics, modifying configurations.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Chang et al. by the teachings of Blattmann-Bleile et al. to include the functionality of management application governing a network server and its resource utilization to a database and database objects because servers can include database and can be themselves considered an organized structured body of data used for storage and retrieval as prevalent in the art.

As to claims 2, 17, and 32, Chang et al. as modified discloses automatically determining a schedule to perform the actions on the database objects, wherein the performing the actions on the database objects comprises performing the actions on the database objects based on the schedule (See Chang et al. page 13, paragraph 10).

As to claims 3, 18, and 33, Chang et al. as modified discloses wherein the performing the actions on the database objects based on the schedule comprises automatically performing the actions on the database objects based on the schedule (See Chang et al. page 13, paragraph 10).

As to claims 4, 19, and 34, Chang et al. as modified discloses confirming the performing the actions on the database objects (See Chang et al. page 14, paragraph 2, wherein “performing an action” reads on “adaptation” taking place or moving to next execution).

As to claims 6, 21, and 36, Chang et al. as modified discloses wherein the determining the characteristics of the database objects comprises automatically determining the characteristics of the database objects (See Chang et al. page 13, paragraph 4, also see Chang et al. page 13, paragraph 10).

As to claims 8, 23, and 38, Chang et al. as modified discloses wherein the determining the actions to be performed on the database objects based on the characteristics of the database objects comprises automatically determining the actions to be performed on the database objects based on the characteristics of the database objects (See Chang et al. page 17, paragraphs 3-4).

As to claims 9, 24, and 39, Chang et al. as modified discloses wherein the statistics comprise object-level statistics (See Chang et al. page 14, paragraph 1).

As to claims 10, 25, and 40, Chang et al. as modified discloses wherein the statistics comprise activity-level statistics (See Chang et al. page 14, paragraph 1).

As to claims 12, 27, and 42, Chang et al. as modified discloses wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more policies in the management criteria (See Chang et al. page 14, paragraph 5, also see Chang et al. page 17, paragraph 3).

As to claims 13, 28, and 43, Chang et al. as modified discloses wherein the determining the characteristics of the database objects comprises determining the characteristics of the database objects using one or more definitions in the management criteria (See Chang et al. page 16, paragraph 4).

As to claims 14, 29, and 44, Chang et al. as modified discloses customizing the one or more definitions in the management criteria (See Chang et al. page 17, section 5.2. wherein “customizing” reads on “interest to the user”).

As to claims 15, 30, and 45, Chang et al. as modified discloses customizing the one or more policies in the management criteria (See p Chang et al. age 12, paragraph 1, also see Chang et al. page 13, paragraphs 4-6).

***Response to Arguments***

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5. Applicant's arguments appear to be generally directed to allegedly lack of database and database objects being monitored. Although, unclear what is included in applicant's definitions of database or database objects since it is well known in the art a database is defined by google.com as any "A collection of data organized for rapid search and retrieval by a computer". and although a server (as taught by Chang et al.) can be interpreted by a person of ordinary skill in the art to read on a database and server resource modules (as taught by Chang et al.) can be interpreted by a person of ordinary skill in the art to read on a database objects, the Examiner has opted to provide an obviousness teachings of database being configured and modified according to performance utilization monitored as introduced by the secondary reference Blattmann-Bleile et al.. The Examiner still contends that the functionality of the claimed limitations is performed fully by Chang et al. with respect to a server and its resources.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pugh et al. (U.S. Patent No. 6,834,290) teaches reorganization of one or more database objects.

Parker (U.S. Patent No. 6,389,430) teaches real-time database object statistics collection.



7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074.

The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian P. Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil  
April 8, 2008  
/Neveen Abel-Jalil/

Primary Examiner, Art Unit 2165